

**STATEMENT OF
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OFFICE OF INFORMATION AND REGULATORY AFFAIRS
BEFORE THE
SUBCOMMITTEE ON ENERGY POLICY, NATURAL RESOURCES
AND REGULATORY AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

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Mr. Chairman, and Members of this Subcommittee, thank you for inviting me to this hearing. I am John D. Graham, Ph.D., Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget. Prior to joining the Bush Administration, I served as a faculty member at the Harvard School of Public Health, where I founded and directed the Harvard Center for Risk Analysis.

Since I testified last year before this subcommittee, our office has been working to improve the regulatory review process and to produce the reports to Congress required under the Regulatory Right to Know Act¹, which is the focus of this hearing.

As you know the Regulatory Right-to-Know Act, also known as the Regulatory Accounting Act, requires that:

a) For calendar year 2002 and each year thereafter, the Director of the Office of Management and Budget shall prepare and submit to Congress, with the budget, an accounting statement and associated report containing:

- 1) an estimate of the total annual costs and benefits (including quantifiable and nonquantifiable effects) of Federal rules and paperwork, to the extent feasible
 - (A) in the aggregate;
 - (B) by agency and agency program; and
 - (C) by major rule;
- 2) an analysis of impacts of Federal regulation on State, local, and tribal government, small business, wages, and economic growth; and
- 3) recommendations for reform.

(b) The Director of the Office of Management and Budget shall provide public notice and an opportunity to comment on the statement and report under subsection (a) before the statement and report are submitted to Congress.

¹ Section 624 of the Treasury and General Government Appropriations Act, 2001, 31 U.S.C. ' 1105 note, Pub. L. 106-554, '1(a)(3) [Title VI, ' 624], Dec. 21, 2000, 114 Stat. 2763, 2763A-161.

(c) To implement this section, the Director of the Office of Management and Budget shall issue guidelines to agencies to standardize

- 1) measures of costs and benefits; and
- 2) the format of accounting statements.

(d) The Director of the Office of Management and Budget shall provide for independent and external peer review of the guidelines and each accounting statement and associated report under this section.

Today I would like to report on the progress we have made in providing the Congress and the public with the regulatory information and accounting statements required by the Act. We released the 2004 draft report for comment and peer review on February 13, 2004, and published a notice of availability in the Federal Register on February 20, 2004. Since I last testified before this committee on the issue of regulatory accounting, we also released, in September, 2003, the 2003 final report. These two reports, which devote significant attention to regulatory accounting, are the focus of my testimony.

OMB's 2003 Final Report to Congress

We released the final version of our sixth report to Congress in September 2003. The report expands considerably upon earlier reports, particularly in the area of regulatory accounting. The report presents estimates for the first time of the costs and benefits of major regulations reviewed by OMB between October 1, 1992, and March 31, 1995. With the addition of costs and benefits from rules issued during fiscal year 2002, the report contained estimates for all major rules issued between October 1, 1992, and September 30, 2002. Overall, the annual quantifiable benefits of major rules issued during this period were estimated to range between \$146 billion and \$231 billion, with their quantifiable costs ranging between \$37 billion and \$43 billion. Information on the nonquantifiable benefits and costs for all major regulations issued during this ten-year period is found for the individual regulations in the appropriate annual report.

For the first time, the report also describes the costs and benefits over a ten-year period for eight cabinet departments and several agencies and programs. Most notably, the report indicates that the Clean Air Program in the Environmental Protection Agency's Office of Air and Radiation accounts for the majority of regulatory benefits over the past decade (between \$118 billion and \$177 billion).

The report also updates the status of the 23 high-priority rules OMB suggested for reform in 2001, based on suggestions we received from commenters regarding 71 regulations involving 17 agencies. Many of these changes would afford regulatory reform to businesses, and small businesses in particular. Agencies have already taken action on a number of these suggestions. For example, the Department of Transportation issued a final rule this past year reforming the Hours of Service of Truck Drivers, which was the nominated for reform in both 2001 and 2002. In addition, the Department of Labor

issued a proposed rule reforming the Overtime Compensation Regulations under the Fair Labor Standards Act, changes which Labor concludes are necessary for the rule to remain relevant and useful for tomorrow's workplace.

The report also contains our Final Guidelines for the Conduct of Regulatory Analysis and the Format of Accounting Statements, which was also released as OMB Circular A-4. After first proposing the guidelines in the 2003 draft report, in collaboration with the President's Council of Economic Advisors, OMB revised them based on substantial public comments and peer review. We also convened a group of agency experts and practitioners to review and offer suggestions to improve the guidelines. The final guidelines are designed to help analysts in the regulatory agencies by encouraging good regulatory impact analysis and standardizing the way that benefits and costs of Federal regulations are measured and reported. The new guidelines went into effect on January 1, 2004, for economically significant proposed rules, and will become effective on January 1, 2005, for economically significant final rules.

The 2003 final report also followed up on our solicitation of public comment on 1) how federal agencies are currently assessing and managing emerging risks to human health, safety, and the environment, particularly those risks that are subject to substantial scientific uncertainty; and 2) how agencies could improve the analysis of the benefits and costs of homeland security proposals.

OMB's 2004 Draft Report to Congress.

OMB released the 2004 draft report on February 13, 2004. It revises the benefit-cost estimates in last year's report by updating the estimates to the end of fiscal year 2003. Like the 2003 report, it uses a ten-year look-back: major federal regulations cleared by OMB from October 1, 1993, to September 30, 2003, were examined to determine their quantifiable benefits and costs. The estimated annual benefits range from \$62 billion to \$168 billion, while the estimated annual costs range from \$34 billion to \$39 billion. It is our intention to continue to report costs and benefits of major rules using a ten-year look-back.

The report also reproduces the totals by program we introduced in the 2003 Report. A substantial portion of both benefits and costs is attributable to a handful of EPA clean-air rules that reduce public exposure to fine particulate matter, and the Clean Air Program in EPA continues to account for the majority of regulatory benefits for rules finalized over the past ten years (between \$35 billion and \$115 billion).

In addition to the accounting statement, the 2004 draft report includes an expanded discussion of the impact of regulations on State, local, and tribal government, small business, wages, and economic growth.

In particular, the report includes an expanded analysis of the impacts of regulations on small business, using newly released reports from the Office of Advocacy of the Small Business Administration. The need to be sensitive to the impact of regulations and

paperwork on small business was recognized in Executive Order 12866, "Regulatory Planning and Review." The Executive Order calls on the agencies to tailor their regulations by business size in order to impose the least burden on society, consistent with obtaining the regulatory objectives. This Administration's E.O. 13272 reinforces the need for agencies to assess the impact of regulations on small businesses, and OIRA has a Memorandum of Understanding with Advocacy that supports our review of these analyses.

In short, our report confirms once again the relatively large burden that regulation imposes on small businesses, and demonstrates the need for an effective voice for small business during the regulatory review process. In previous reports, OMB has requested public nominations of promising regulatory reforms. Agencies have adopted or are continuing to follow up on many suggestions relevant to small business, including recommendations from Advocacy, and OMB will continue to seek information from agencies on how they plan to address their candidates for reform. In addition, OMB will continue to provide status reports to Congress on agency progress. In this draft report, OMB requests public nominations of promising regulatory reforms relevant to the welfare of manufacturing enterprises, especially small and medium-sized ones. Also, because studies have found that tax compliance was particularly burdensome for small businesses, OMB is especially interested in suggestions to simplify IRS paperwork requirements. Comments will be shared with relevant federal agencies for evaluation and, if meritorious, implementation. Final reform directions will be outlined in OMB's final report, to be published later this year.

This small business report and request for reform nominations complements our recent activity in connection with the implementation of the Small Business Paperwork Relief Act of 2002 (SBPRA). OMB, with the help of this Subcommittee, has undertaken many measures to reduce the paperwork burden that Federal requirements impose on small businesses, and to facilitate the use of agency information and resources available to small businesses.

For example, in an October 28, 2003, memorandum to the President's Management Council, we informed agencies of their responsibilities under this Act. In the memorandum, I drew special attention to the December 31, 2003 deadline for submission of regulatory enforcement reports to Congress. In addition, this Act requires OMB to publish, on an annual basis, a list of compliance assistance resources available to small business. Because we thought it would be helpful for the public to have the list of agency contacts along with the list of compliance assistance resources, OMB published these lists together. These lists are available on the OMB website (<http://www.whitehouse.gov/omb/inforeg/infocoll.html#sbpra>) and the SBA website (http://www.sba.gov/ombudsman/compliance/dsp_compliance.html). Finally, as you know, this Act requires the OMB Director or his representative to convene and chair an interagency task force, which must issue two reports addressing a total of five specific issues. The first final Task Force report was delivered to Congress on June 26, 2003 and a Notice of Availability was published in the Federal Register on June 27, 2003. This Task Force found that reducing small business paperwork burden is a challenge that

raises both regulatory and information technology issues. The Task Force also found that the presidential e-government initiatives, such as the Business Compliance One-Stop Initiative, represent the best opportunity for reducing the paperwork burden on small business. Since the first Task Force report was released, the Business Compliance One-Stop Initiative has been renamed the Business Gateway initiative. The Task Force is already working on the second report, which is due by June 28, 2004.

The 2004 draft report also includes an expanded review of the international literature on the effects of regulation on national economic growth and performance. Based on a comparison of 130 countries, the ten least regulated economies are Hong Kong, Singapore, the United States, New Zealand, the United Kingdom, Canada, Switzerland, Ireland, Australia and the Netherlands. These same economies have experienced relatively good economic performance measured by economic growth, per capita income and life expectancy. The adverse impacts of regulation may be mediated through factors such as the number of procedures required to start a new business, the time and costs of registering a new business, and the enforceability of contracts. More research is needed to determine the precise causal relationships between regulation and economic growth and performance.

Finally, in light of recent concerns about the health of manufacturing in the U.S., the draft report reviews the economics literature on the impacts of regulation on manufacturing enterprises. The review finds that the cumulative costs of regulation on the manufacturing sector are large compared to other sectors of the economy. In the report, OMB requests public nominations of promising regulatory reforms relevant to this sector. In particular, commenters are requested to suggest specific reforms to rules, guidance documents or paperwork requirements that would improve manufacturing regulation by reducing unnecessary costs, increasing effectiveness, enhancing competitiveness, reducing uncertainty and increasing flexibility. Final reform directions regarding manufacturing regulations will also be outlined in OMB's final report.

Thank you very much for the opportunity to appear today. I am willing to answer any questions you may have.